

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION

JON HANSON and JAMES DEMARTINI,
Individually and On Behalf of All Others
Similarly Situated,

Plaintiffs,

vs.

BERTHEL FISHER & COMPANY
FINANCIAL SERVICES, INC.,

Defendants and Third-
Party Plaintiff,

vs.

THOMPSON NATIONAL PROPERTIES,
LLC, TNP 2008 PARTICIPATING NOTES
PROGRAM, LLC and ANTHONY W.
THOMPSON,

Third-Party Defendants.

Case No. 1:13-cv-00067-LRR/JSS

**AFFIDAVIT OF
STEVEN P. WANDRO**

I, Steven P. Wandro, after being duly sworn upon my oath, states as follows:

1. I have been retained as an expert for the named Plaintiffs in this case.
2. I am an attorney in good standing. I have been practicing law in the State of Iowa since 1984. I am authorized to practice in the Iowa Federal Courts.
3. I graduated from the University of Iowa Law School in 1984. I practiced as a poverty lawyer with the Iowa Legal Services Corporation from 1984 to 1987. There I represented financially distressed farmers.

4. From 1987 to 1989 I served as a law clerk for the Honorable Lee M. Jackwig, Bankruptcy Judge for the Southern District of Iowa.

5. From 1989 to 1991 I worked as an associate at the Davis Brown Law Firm, focusing on complex multi-party litigation.

6. I then joined the Brown Winick Law Firm in 1991 as a partner and practiced commercial litigation until 1996.

7. In 1996 I formed my own law firm. I am primarily involved in complex commercial litigation.

I have successfully prosecuted and defended numerous class action lawsuits. Within the past two (2) years I participated in two successful efforts to certify classes. *See Residents of Elsie Mason Manor and Ligutti Tower, by and through Katherine Daniel v. First Baptist Elderly Housing Foundation, d/b/a Elsie Mason Manor, First Baptist Housing Foundation, d/b/a Ligutti Tower, and American Baptist Homes Of The Midwest*, Iowa District Court for Polk County, Law No. CV8116; and *Wayne Edgerton, Wayne Edgerton IRA, and Edeltraut Edgerton, Dean and Sharee Costlow, and Ronald J. Peterson, Ronald J. Peterson IRA, and Judy M. Peterson, on behalf of themselves and all others similarly situated v. DeWaay Financial Network, LLC, DeWaay Capital Management, Inc., DFN Partners, LLC, and Donald G. DeWaay, Jr., Iowa District Court for Decatur County, Case No. LACV 006033; and Gordon Mosher, individually and in his capacity as Trustee for the Gordon & Dixie Mosher Trust, Dixie Mosher, individually and in her capacity as Trustee for the Gordon & Dixie Mosher Trust, Gordon L. Mosher IRA, Gordon L. Mosher Roth IRA, Dixie Mosher Roth IRA, and Dixie Mosher IRA, Philip Metcalf*

IRA, Janet Metcalf IRA, Philip and Janet Metcalf Trust, and on behalf of themselves and all others similarly situated, Iowa District Court for Decatur County, Case No. LACV 006034.

8. In the past I have participated in a number of significant cases involving complex litigation.

- *Hedge to Arrive Litigation* (numerous state and federal courts throughout the Midwest). Successfully represented over 200 farmers in litigation concerning derivative commodity contracts.
- *Seed Corn Cases* (Polk County). Represented over 1000 Iowa Farmers in litigation involving seed corn that failed to germinate. The confidential settlement was substantial.
- *Luce et al. v. Gate Pharmaceuticals*, Iowa District Court for Polk County, Law No. CE 35476. Represented 37 users of the diet drug Fen-Phen. The case settled for \$12.37 million.
- *Farmers Cooperative v. Drizin*. USDC ND Iowa. Obtained an \$11 million dollar judgment against loan brokers who defrauded farmers in connection with the construction of an ethanol plant.
- *State v. R.J. Reynolds Tobacco Company*. Iowa District Court for Polk County, Law No. CL 71048. Represented with five other law firms, the State of Iowa in its landmark case against tobacco companies resulting in a settlement of \$2 billion.
- *Arterburn v. Crosser et al.* Iowa District Court for Union County. Represented over 100 Iowa farmers who invested in a failed soy oil plant. The confidential settlement was substantial.
- *Farmers Coop v. Azko Nobel et al.* Represented a class of Iowa users of livestock vitamins against vitamin manufacturers in a restraint of trade case. The case settled for \$20,250,000.

9. The fees sought by Plaintiff's counsel are reasonable in light of the standards set out in F.R.C.P. 23(h) and cases interpreting the Rule.

10. After review of the history of this case, the results achieved by counsel in this complex litigation are impressive.

11. In our community, contingency fee arrangements of one-third of awards received before appeal and 40% after appeal are typical. Counsels' request of only 15% is less than one-half of typical contingency fee awards.

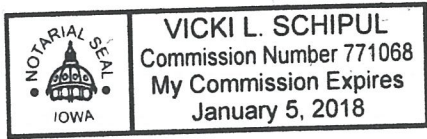
12. I have reviewed the billing affidavits of counsel to undertake a lodestar analysis. The attorneys in this case have expended a total of 1,861.70 hours in this case. Customary billing rates for Iowa counsel of comparable experience, skill and reputation range from \$250.00 per hour to \$450.00 per hour. I have utilized an average of \$350.00 per hour. Multiplying the total time expended in this case by \$350.00 per hour yields a total of \$651,595.00. The total compensation sought, \$450,000.00 divided by \$651,565.00 yields a lodestar multiplier of .69. Clearly, counsel would have been better off taking this case on an hourly basis. In other words, counsel's remuneration has resulted in a "write down" vis-à-vis their hourly rate. The Plaintiffs have indeed received a bargain from their attorneys. Clearly the fees sought are more than reasonable under the circumstances.

14. In the *Farmers Coop v. Azko* case, a class action case of relatively recent vintage, the Iowa District Court awarded 33^{1/3}% of the \$20,250,000 settlement amount. This award underscores the reasonableness of the amount counsel seeks in the present case.

FURTHER YOUR AFFIANT SAITH NOT.


Steven P. Wandro

Subscribed to and sworn before me by the said Steven P. Wandro this 10th day of September, 2015.



Vicki L. Schipul

Notary Public in and for the State of Iowa